

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether ("MTBE")  
Products Liability Litigation

Master File No. 1:00-1898 (SAS)  
MDL 1358

**This document relates to:**

*Commonwealth of Puerto Rico, et al. v. Shell  
Oil Co., et al.*, Case No. 07-cv-10470

**CASE MANAGEMENT ORDER # 117**

1. On November 30, 2012, Plaintiffs The Commonwealth of Puerto Rico and The Commonwealth of Puerto Rico through the Puerto Rico Environmental Quality Board ("Plaintiffs") filed their Third Amended Complaint against Defendants Chevron Corporation, Chevron Puerto Rico, LLC f/k/a Texaco Puerto Rico Inc., Chevron International Oil Company, Inc., Chevron U.S.A. Inc., Chevron Caribbean Inc., Chevron Estrella Puerto Rico Inc., Chevron Phillips Chemical Puerto Rico Core LLC, Conoco Phillips Company, CITGO Refining and Chemicals Company L.P., CITGO International Puerto Rico Company, CITGO Petroleum Corporation, Esso Standard Oil Company (Puerto Rico), Exxon Mobil Corporation, Hess Oil Virgin Islands Corp., HOVENSA L.L.C., Idemitsu Apollo Corporation, Lyondell Chemical Company, Peerless Oil and Chemicals, Inc., Puma Energy Caribe, LLC, Puma Energy Puerto Rico, Inc., Puma Energy International Energy, B.V., Trafigura AG, Trafigura Beheer B.V., Petrobras America, Inc., Shell Oil Company, Shell Company Puerto Rico LTD, Shell Company Yabucoa, Inc., Shell Trading (US) Company, Motiva Enterprises, LLC, Equilon Enterprises, LLC, Shell Western Supply and Trading Limited, Shell International Petroleum Company Limited, Shell Western Services Sunoco, Inc., Sunoco Inc. (R&M), Puerto Rico Sun Oil

\* See page six

Company, LLC, Total Petroleum Puerto Rico Corp., Total Outre Mer, SA, Total SA, Tauber Oil, Trammo Petroleum, Inc., Trammo Caribbean, Inc., Vitol, S.A. and Vitol, Inc. (collectively, “Defendants”).<sup>1</sup>

The parties have completed all discovery related to the sites identified below:

- 86-0948 / Shell #003042 / Rd. #487 Villa Del Rey / Caguas
- 86-1205 / Esso CO-363 / Villa St. #224 / Ponce
- 86-1232 / Esso CO-242 / Calle Antonio R. Barcelo #1 / Cayey
- 91-0067 / Total 1012 / Central Ave. #263 / San Juan
- 86-1825 / Texaco #800 / Carr. #133, Km. 0.8 / Ponce

2. Based upon the Phase 1 trial sites<sup>2</sup> listed on the matrix attached as Exhibit A (“Phase 1 Trial Site Matrix”), this Case Management Order identifies: (1) the Phase 1 Trial Sites; (2) the Defendants against whom Plaintiffs will assert causes of action at each Phase 1 Trial Site; and (3) the causes of action that Plaintiffs will assert against each of these Defendants at each Phase 1 Trial Site. Defendants do not stipulate to the validity and/or viability of any claims referenced in Exhibit A, and do not waive their right to move for summary judgment on any such claims except as expressly set forth herein.

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<sup>1</sup> The following defendants have been dismissed from the case and are not parties to this Stipulated CMO: Peerless Oil and Chemicals, Inc., Puma Energy Caribe, LLC, Puma Energy Puerto Rico, Inc., Puma Energy International Energy, B.V., Total Outre Mer, S.A., Total, S.A., Trafigura AG, Trafigura Beheer B.V., Tauber Oil, Idemitsu Apollo Corporation, Trammo Petroleum, Inc., Trammo Caribbean, Inc., Vitol, S.A., Vitol, Inc. (collectively, “Currently Dismissed Defendants”). Where used in subsequent paragraphs, the term “Defendants” excludes these entities.

<sup>2</sup> Plaintiffs have dismissed or agreed to dismiss with prejudice their claims regarding the following Trial Sites: the Chevron Phillips Chemical Puerto Rico Core facility, the Manati Municipal Garage, the Maysonet-Garrochales Service Station, and the Guayamo Urbano Filtration Plant (the latter three sites collectively referred to as “Defendants-Selected Phase 1 Trial Sites”).

3. Plaintiffs stipulate that they will pursue Count V (Environmental Public Policy Act) in the trial of the Phase 1 Trial Sites only against Defendants that have owned or operated Phase 1 Trial Sites and/or the underground storage tanks at the Phase 1 Trial Sites – *i.e.*, the Defendant(s) identified on Exhibit A for each Trial Site as to Count V. Based upon this stipulation, Defendants not listed on the Phase 1 Trial Site Matrix stipulate that they will not bring summary judgment motions as to Count V in Phase 1 of this case.

4. Defendants further stipulate that they will not file summary judgment motions regarding Plaintiffs' claims with respect to Defendants-Selected Phase 1 Trial Sites and the CORE Facility, which claims Plaintiffs have dismissed or have agreed to dismiss with prejudice. The parties shall finalize the stipulated dismissal of Defendants-Selected Phase 1 Trial Sites by September 22, 2014.

5. Defendants stipulate that they will not file summary judgment motions in Phase 1 of this case regarding the justiciability of Plaintiffs' claims.

6. Plaintiffs stipulate that they will pursue Count VIII (Resource Conservation and Recovery Act) in the trial of the Phase 1 Trial Sites only against Defendants that have owned Phase 1 Trial Sites and/or the underground storage tanks at the Phase 1 Trial Sites – *i.e.*, the Defendant(s) identified on Exhibit A for each Trial Site as to Count VIII. Based upon this stipulation, Defendants not listed on the Phase 1 Trial Site Matrix stipulate that they will not bring summary judgment motions as to Count VIII in Phase 1 of this case.

7. Plaintiffs stipulate that they will pursue Counts II (Public Nuisance) and III (Trespass) in the trial of the Phase 1 Trial Sites only against Defendants that have owned Phase 1 Trial Sites and/or the underground storage tanks at the Phase 1 Trial Sites – *i.e.*, the Defendant(s) identified on Exhibit A for each Trial Site as to Counts II and III. Based upon this stipulation,

Defendants not listed on the Phase 1 Trial Site Matrix stipulate that they will not bring summary judgment motions as to Counts II and III in Phase 1 of this case, except to the following extent: such Defendants may join in the arguments, to the extent made, identified in sections II, III, and IV of Defendants' June 26, 2014 pre-motion letter on Nuisance and Trespass, but such joinder shall be by a simple footnote statement that they join in the argument of the Defendant(s) identified as to one or more Trial Sites as to Counts II and III on Exhibit A.

8. Defendants reserve the right to bring motions for summary judgment based on the statute of limitations. Plaintiffs do not stipulate that the filing of such motions would be appropriate at this time and reserve their rights to oppose the filing of such motions.

9. Defendants reserve the right to bring a motion for summary judgment based on the precedent of *Puerto Rico v. S.S. Zoe Colocotroni*. Plaintiffs do not stipulate that the filing of such a motion is appropriate and reserve their rights to oppose the filing of such a motion.

10. Defendants not listed on the Phase 1 Trial Site Matrix stipulate that they will not file summary judgment motions in Phase 1 of this case, except to the extent stipulated in paragraphs 7-9 and for the following motion for summary judgment:

Chevron Corporation, Chevron U.S.A. Inc., Chevron International Oil Company, Inc., Chevron Caribbean Inc. and Chevron Estrella Puerto Rico Inc. ("Certain Chevron Defendants") may collectively bring a single motion for summary judgment on all claims asserted against them based on an alleged absence of any involvement by these Certain Chevron Defendants in the manufacture, supply, distribution and sale of gasoline in Puerto Rico.

11. Defendants listed on the Phase 1 Trial Site Matrix stipulate that they may file summary judgment motions for sites where such Defendants are listed on the Phase 1 Trial Site Matrix.

12. Notwithstanding the foregoing, or anything else to the contrary in this Order, Defendants Shell Oil Company, Shell Trading US Company, Motiva Enterprises LLC, Equilon Enterprises LLC, TMR Company, Shell Chemical Yabucoa, Inc., Shell International Petroleum Company Limited, and Shell Western Supply and Trading Limited, collectively may bring a single motion for summary judgment on all claims asserted against them based on an alleged lack of business operations in Puerto Rico and the alleged lack of supply or use of MTBE in Puerto Rico; such motion shall be based only upon the alleged lack of business operations in Puerto Rico and the alleged lack of defendants' supply or use of MTBE above *de minimis* levels in Puerto Rico.

13. By agreeing to limit their claims in certain respects with regard to the trial of the Phase 1 Trial Sites, Plaintiffs do not stipulate to any lack of validity of their causes of action. Plaintiffs expressly reserve their rights to pursue any and all remaining claims against any and all Defendants in subsequent phases of this case for sites other than the Phase 1 Trial Sites. Plaintiffs do not stipulate to the validity of any motions for summary judgment that may be filed by one or more Defendants. Plaintiffs reserve their rights to oppose all motions for summary judgment on any and all grounds.

After considering the foregoing and the Phase 1 Trial Site Matrix attached hereto as Exhibit A, it is hereby **ORDERED** that:

Plaintiffs may assert claims at the Phase 1 Trial Sites only against the Defendant(s) identified for each site in the Phase 1 Trial Site Matrix attached hereto as Exhibit A ("Identified



Defendant(s)”) and only for the causes of action identified at each site for each Identified Defendant in the Phase 1 Trial Site Matrix. The Phase 1 Trial Site Matrix may be modified to delete sites, and/or claims and/or Identified Defendants as to each site, but cannot be revised to add sites and/or claims and/or Defendants to a site at which they are not currently listed.

All claims as to the Phase 1 Trial Sites against all other Defendants not listed on the Phase 1 Trial Site Matrix are hereby dismissed with prejudice. All claims as to the Phase 1 Trial Sites as against the Identified Defendants, other than as specifically listed in the Phase 1 Trial Site Matrix, are hereby dismissed with prejudice.

Defendants not listed on the Phase 1 Trial Site Matrix shall not file summary judgment motions as to the trial sites in Phase 1 of the case, except to the extent stipulated above. Identified Defendants listed on the Phase 1 Trial Site Matrix may file summary judgment motions for sites where they are specifically identified except to the extent limited above. Notwithstanding the foregoing, or anything else to the contrary in this Order, Defendants Shell Oil Company, Shell Trading US Company, Motiva Enterprises LLC, Equilon Enterprises LLC, TMR Company, Shell Chemical Yabucoa, Inc., Shell International Petroleum Company Limited, and Shell Western Supply and Trading Limited, collectively may file a single summary judgment motion on all claims asserted against them subject to the limitations set forth above.

Nothing herein applies to the Currently Dismissed Defendants. Plaintiffs and Currently Dismissed Defendants reserve all rights should any Currently Dismissed Defendant(s) later be reinstated in the case.

*\* No motions for summary judgment may be made until the moving party has complied with the Court's pre-motion conference procedure.*

STIPULATED TO BY:

By: s/ Scott Kauff

Scott Kauff  
John K. Dema  
LAW OFFICES OF JOHN K. DEMA, PC  
11300 Rockville Pike, Suite 112  
Rockville, Maryland 20852  
Phone: (301) 881-5900  
Fax: (240) 536-9108

*On behalf of Plaintiffs*

Dated: September 12, 2014

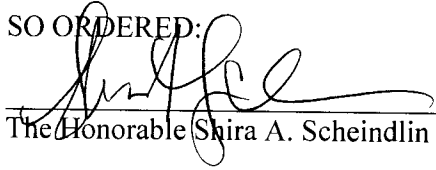
By: s/ Lisa A. Gerson

James A. Pardo  
Lisa A. Gerson  
MCDERMOTT WILL & EMERY  
340 Madison Avenue  
New York, New York 10173-1922  
Tel: (212) 547-5400  
Fax: (212) 547-5444

*On behalf of Defendants*

Dated: September 12, 2014

SO ORDERED:

  
The Honorable Shira A. Scheindlin

9/15/14

Commonwealth of Puerto Rico, et al v. Shell Oil Co., et al. Case No. 07-cv-10470EXHIBIT A

Trial Site #	Station Name & Address	Causes of Action	Defendant(s)
3	Shell # 003042 Rd. #487 Villa Del Rey Caguas, PR	Public Nuisance Trespass RCRA	Shell Company Puerto Rico, Ltd., n/k/a Sol Puerto Rico Limited ("Sol")
		Strict (Products) Liability Negligence	Sol Shell Western S&T, Ltd. Shell Oil Company Shell Int'l Petroleum Company Ltd. Hess Oil Virgin Islands Corp. ("HOVIC") HOVENSA L.L.C. ("HOVENSA") Chevron Phillips Chemical Puerto Rico CORE LLC ("Chevron Phillips Chemical PR CORE") ConocoPhillips Company Lyondell Chemical Company ("Lyondell")
		EPPA	Sol
		CERCLA TSCA	None in Phase I



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Trial Site #	Station Name & Address	Causes of Action	Defendant(s)
5	Esso CO-364 Esq. Villa & Cementerio St Ponce, PR	Public Nuisance Trespass RCRA	Esso Standard Oil Co. PR ("Esso")
		Strict (Products) Liability Negligence	Esso Exxon Mobil Corporation ("ExxonMobil") HOVIC/HOVENSA Chevron Phillips Chemical PR CORE ConocoPhillips Company Lyondell
		EPPA	Esso
		CERCLA TSCA	None in Phase 1

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<b>Trial Site #</b>	<b>Station Name &amp; Address</b>	<b>Causes of Action</b>	<b>Defendant(s)</b>
6	Esso CO-242 Calle Antonio R. Barcelo #1 Cayey, PR	Public Nuisance Trespass RCRA	Esso
		Strict (Products) Liability Negligence	Esso ExxonMobil HOVIC/HOVENSA Chevron Phillips Chemical PR CORE ConocoPhillips Company Lyondell
		EPPA	Esso
		CERCLA TSCA	None in Phase 1

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Trial Site #	Station Name & Address	Causes of Action	Defendant(s)
9	Total 1012 Central Ave. #263 San Juan, PR	Public Nuisance Trespass RCRA	Total Petroleum Puerto Rico Corp.
		Strict (Products) Liability Negligence	Total Petroleum Puerto Rico Corp. CITGO International Puerto Rico Company Chevron Phillips Chemical PR CORE ConocoPhillips Company Lyondell
		EPPA	Total Petroleum Puerto Rico Corp.
		CERCLA TSCA	None in Phase 1

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Trial Site #	Station Name & Address	Causes of Action	Defendant(s)
10	Texaco #800 - Constancia S/S Rd. 133, K.M. 0.8 URB. Constancia Ponce, PR	Public Nuisance Trespass RCRA	Chevron Puerto Rico, LLC, f/k/a Texaco Puerto Rico Inc.
		Strict (Products) Liability Negligence	Chevron Puerto Rico, LLC, f/k/a Texaco Puerto Rico Inc. HOVIC/HOVENSA
		EPPA	Chevron Puerto Rico, LLC, f/k/a Texaco Puerto Rico Inc.
		CERCLA TSCA	None in Phase I